

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN
U.S. DISTRICT COURT
EASTERN DISTRICT-WI
FILED

RONNIE FAMOUS

Plaintiff,

2020 MAR 30 P 1:42

CLERK OF COURT

v.

CASE NO. **20-C-0510**

JURY TRIAL DEMANDED

JOE JEZWINSKI, CARLO GARNAN,
LATOYA LORIA, sued in their
individual capacities, and
MELISSA MITCHELL, sued in
her individual and official
capacities

Defendants.

Preliminary statement

This is a civil rights action filed by
Ronnie Famous, a state prisoner, for
damages and injunctive relief under 42
U.S.C. § 1983 alleging failure to
protect and denial of adequate medical
care in violation of the Eighth
Amendment to the U.S. constitution.
The plaintiff also alleges the state
tort of negligence.

Jurisdiction

1. The court has jurisdiction over the

the Plaintiff's claims of violation of Federal constitutional rights under 42 U.S.C. §§ 1331 (a) and 1343.

2. The court has supplemental jurisdiction over the Plaintiff's state law tort claim under 28 U.S.C. § 1367 (a).

3. The Plaintiff, Ronnie Famous, was incarcerated at Wisconsin Resource Center, P.O. Box 220, Winnebago, WI 54985 during the events described in this complaint.

4. Defendant Joe Jezewski is employed by the state of Wisconsin Department of Health and Family Services as a Patient care technician at the Wisconsin Resource Center, P.O. Box 220, Winnebago, WI 54985. He is sued in his individual capacity.

5. Defendants Carlo Gagnan and Latoya Loria are medical doctors employed by the state of Wisconsin Department of Health and Family Services at the Wisconsin Resource Center, P.O. Box 220, Winnebago, WI 54985. They are sued in their individual capacity.

6. Defendant Melissa Mitchell is employed by the state of Wisconsin

Department of Health and Family Services as a Health Services Unit Supervisor at the Wisconsin Resource Center, P.O. Box 220, Winnebago, WI 54985. She is sued in her individual and official capacities.

7. All of the defendants have acted and continue to act under color of state law at all times relevant to this complaint.

8. The Plaintiff has filed grievances and a Notice of Claim, exhausting all of his administrative remedies concerning the facts of this complaint.

Facts

Eighth Amendment claim / Negligence

9. After receiving a number of foul meals while on unit H-15 Plaintiff volunteered to go to the segregation unit F-11. Then on 12-24-19 after receiving one of several very bad meals from Pct Jesse Doe that made Plaintiff sick, Plaintiff asked Pct Joe Jezewski to inform the PCS F-11 supervisor that Plaintiff needed to speak with him and to also inform F-11 psychologist Ashley Spiegelberg that Plaintiff needed to speak with her

because plaintiff was going to harm him self.

10. Jezwinski refused to inform PSY staff about the emergency.

11. Plaintiff then covered his window and told Jezwinski that he was going to harm him self.

12. Jezwinski then told plaintiff to go ahead and then walked away.

13. Jezwinski then came back to plaintiff's cell four separate times while plaintiff karate chopped the steel desk in his cell many times seriously injuring his little finger on his left hand to the point that it's disfigured, deformed and hurts constantly. Jezwinski totally disregarded this excessive risk to Plaintiff's health and safety in violation of the Eighth Amendment.

Deliberate Indifference / malpractice

14. Plaintiff was then seen by the nurse and Dr. Carlo Gaganan, who ordered a ice bag, X-ray, Ibuprofen pain meds for a week and that plaintiff's two fingers be taped together to try to straighten the finger back out. And told Plaintiff some one would be seeing him.

15. After no one followed-up with plaintiff, the Ibuprofen ran out and plaintiff's condition became worse he asked to see the doctor and was seen by Dr. Latoya Loria on 1-30-20.

16. Defendant Loria showed Plaintiff the tendons in the finger on her computer and told Plaintiff his tendons are damaged and is what's causing his finger to be crooked and unable to bend. However, she will not order surgery at this time because plaintiff has four other good fingers to use and they don't operate on the little finger, but they would if it was the other fingers or the thumb. And that surgery is expensive and Plaintiff should keep using the Ibuprofen for the pain in violation of the Eighth Amendment.

17. Plaintiff then complained about the inadequate medical care to defendant HSY manager Melissa Mitchell who showed deliberate indifference to this failure to provide adequate medical care to plaintiff, where Mitchell refused to do anything about Plaintiff's worsening condition.

18. The condition of Plaintiff's finger is getting worse. It is crooked, numb, will not fully bend so that Plaintiff can not

grip with it like he could do before the injury occurred. It hurts continuously, especially when plaintiff tries to make a fist and the Ibuprofen does not stop the pain completely. Also plaintiff's finger is deformed.

19. on information and belief Plaintiff will suffer permanent serious impermanent, i.e. never be able to fully bend his finger again if the tendons are left untreated or unrepaired.

20. If the defendants would refer Plaintiff to a specialist, i.e. hand doctor who could repair his damaged tendons, Plaintiff would be free from this unnecessary infliction of pain.

21. Plaintiff may seek an injunction against conditions that may cause illness in the future, like the permanent impermanent of Plaintiff's finger. *Helling v. McKinney*, — U.S. — 113 S.Ct. 2475, 2480-81 (1993).

22. Plaintiff is suffering mental, emotional and physical pain as a result of the defendants refusal to adequately treat his injuries.

23. under the constitution prison officials must provide medical care for serious

medical needs. The supreme court has ruled that deliberate indifference to serious medical needs of prisoners is cruel and unusual punishment. *Estelle v. Gamble*, 429 U.S. 97, 104, 97 S.Ct. 285 (1976).

24. This complaint alleges facts that state a constitutional claim under the *Estelle v. Gamble* standard because a medical need is serious if it carries the risks of permanent serious impairment if left untreated, results in needless pain and suffering when treatment is withheld, *Gutierrez v. Peters*, 111 F.3d 1364, 1371-73 (7th Cir. 1997), significantly affects an individual's daily activities, *Chance v. Armstrong*, 143 F.3d 698, 702 (2d Cir. 1998), causes pain, *Cooper v. Casey*, 97 F.3d 914, 916-17 (7th Cir. 1996), or otherwise subjects the prisoner to a substantial risk of serious harm, *Famer v. Brennan*, 511 U.S. 825 (1994). Deliberate indifference means that the officials were aware that plaintiff needed medical treatment, but disregarded the risk by failing to take reasonable measures. *Forbes v. Edgar*, 112 F.3d 262, 266 (7th Cir. 1997).

25. The defendants are aware that the Plaintiff needs medical treatment

because he can not fully use his finger any more and it continuously hurts.

Claims For Relief

26. The actions of defendant Joe Jezwinski stated in paragraphs 9-13 constitute failure to protect in violation of the Eighth Amendment to the U.S. Constitution.

27. The actions of defendants Carlo Gaanan, Latoya Loria and Melissa Mitchell stated in paragraphs 14-17 constitute deliberate indifference to plaintiffs serious medical needs in violation of the Eighth Amendment to the U.S. Constitution.

28. The actions of the defendants stated at paragraphs 9-17 also constitute the state tort of negligence.

To prevail on a claim for medical negligence in Wisconsin, Plaintiff must prove that defendants breached their duty of care and that he suffered injury as a result. *Paul v. Skemp*, 2001 WI 42, 11/17, 242 Wis. 2d 507, 520, 625 N.W. 2d 860, 865.

Relief Requested

WHEREFORE, Plaintiff request that the

court grant the following relief:

A. Issue an injunction ordering defendants carlo Gagnan, Latoya Loria and melissa mitchell or their agents to:

1. immediately have plaintiffs injured tendons treated by a hand doctor.

2. carry out with out delay the treatment for my damaged tendons.

B. Award compensatory damages in the following amounts:

1. \$150,000. against each defendant.

C. Award punitive damages in the following amounts:

\$160,000. against each defendant.

D. Grant such other relief as it may appear that plaintiff is entitled.

DECLARATION UNDER PENALTY OF PERJURY
I, declare under penalty of perjury that the forgoing is true and correct.

Dated: March 26, 2020

Respectfully Submitted,

Ronnie Famous

RONNIE FAMOUS / Pro se

#068021 / WRC

P.O. Box 220

Winnebago, WI 54985